

that the person, corporation or partnership against whom such injunction is sought shall enter into a bond with one or more sufficient sureties, in such sum as the judge hearing the said application and having jurisdiction thereof shall fix, securing the complainant in the payment of any injuries that may be sustained by such complainant as the result of such drilling or mining operations; provided, that the court may, when he deems it necessary to protect any or all interest involved in such litigation, in lieu of such bond, appoint a trustee with such powers as the court may prescribe or appoint a receiver under the provisions of the statute, to take charge of and hold the minerals produced from the lands of the complainant or the proceeds thereof subject to the final disposition of such litigation.

SECTION 2. The crowded condition of the Legislative calendar and the importance of this Legislation, creates an emergency and an imperative public necessity that the Constitutional rule requiring that bills be read on three several days be suspended, and the same is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

[NOTE.--S. B. No. 319 passed the Senate on February 27, 1919; and passed the House of Representatives on March 17, 1919, but no vote given in either.]

Approved April 3, 1919.

Becomes effective 90 days after adjournment.

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PROVIDING FOR THE SALE, LEASE, TRANSFER, PATENT-  
ING AND FORFEITURE OF LANDS BELONGING TO THE  
FREE SCHOOL FUND AND OTHER FUNDS, WITH  
RESERVATION OF MINERALS.

S. B. No. 127.]

CHAPTER 163.

An Act to provide for the sale, lease, transfer, patenting and forfeiture of the land belonging to the Public Free School Fund, the Lunatic Asylum Fund, the Blind Asylum Fund, the Deaf and Dumb Asylum Fund, and the Orphan Asylum Fund, by amending Articles 5407, 5408, 5409, 5410, 5432, and 5435, of the Revised Civil Statutes of 1911, relating to the sale of public school and asylum lands, and to repeal Chapter 150, Act approved April 5, 1915, relating to the sale of public lands, and the reservation of all minerals in all the land included in this Act, and declaring an emergency.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. On the first day of September 1919, and the first day of each January, May and September of each year thereafter, all the unsold lands set apart for the benefit of the public free school fund, the Lunatic Asylum fund, the Blind Asylum fund, the Deaf and Dumb Asylum fund, the Orphan Asylum fund, which have heretofore been surveyed or that may hereafter be surveyed and unsold portions of same shall be subject to sale by the Commissioner of the General Land Office under the regulations and upon the terms provided in this Act;

provided, no land leased before the passage of this Act shall be subject to sale until the first sale date after the termination of the lease. No corporation shall purchase any land under this Act.

SEC. 2. Article 5407 of the Revised Civil Statutes of 1911 shall be so amended as to hereafter read as follows:

Article 5407. The Commissioner of the General Land Office shall from time to time, as the public interest may require, classify or re-classify, value or revalue, any of the lands included in this Act, designating the same as agricultural, grazing or timber, or a combination of said classifications, according to the facts in the particular case, and when entry of the classification and the appraisement is made on the records of the General Land Office, no further action on the part of the Commissioner, nor notice to the County Clerk shall be required to give effect thereto. No land classed as agricultural shall be sold for less than one dollar and fifty cents per acre and no land classed as grazing shall be sold for less than one dollar per acre. The land included in this Act shall be sold with the reservation of the oil, gas, coal and all other minerals that may be therein to the fund to which the land belongs and all applications shall so state. Timber on land shall be sold for cash at its fair market value. The Commissioner shall notify the clerk of the proper county of the sale of each tract, giving the name and address of the purchaser together with the price of the land. When informed of the sale of any land the clerk shall enter on his books opposite the description of the land sold, the name of the purchaser and the date sold, and the notice of such sale and the books of record and entry shall be considered public records, and be open to public inspection, and it is hereby made the duty of the county clerk to exhibit the said records to any person who shall apply therefor.

SEC. 3. Article 5408 of the Revised Civil Statutes of 1911 shall be so amended as to hereafter read as follows:

Article 5408. In cases where any land included in this Act may be leased and the same may come on the market by reason of the expiration or cancellation of such lease or in cases where land may be sold and revert to the fund to which it originally belonged by reason of the forfeiture or cancellation of the sale, it shall be the duty of the Commissioner to classify and value same before the next sale date thereafter and adopt such means as may be at his command that will give the widest publicity and general information as to when such land and other unsold land will be on the market for sale, together with the terms and conditions upon which the land may be purchased. No tract of land shall be subject to sale until it shall have been advertised. If there are no other satisfactory or sufficient means at the command of the Commissioner that will give the necessary publicity he shall have printed at the expense of the State, to be paid out of the appropriation for public printing, lists of the land for free distribution to the public. The lists shall contain a brief statement of how one shall proceed to buy the land.

SEC. 4. Article 5409 shall be amended so as to hereafter read as follows:

Article 5409. One desiring to buy any portion of the land included in this Act shall transmit to the Commissioner of the General Land Office a separate application for each tract applied for together with

the affidavit of the applicant to the effect that he desires to purchase the land for himself and that no other person or corporation is interested in the purchase thereof either directly or indirectly and one-fortieth of the aggregate price offered for the land and the obligation of the applicant in a sum equal to the amount of the unpaid purchase price offered for the land, binding the purchaser to pay to the State at the General Land Office at Austin, Texas, on the first day of November thereafter and on the first day of November of each year thereafter until the whole purchase price is paid, one-fortieth of the aggregate price with interest on the unpaid purchase price at the rate of five per cent per annum. Upon receipt and filing of the application, affidavit, obligation and the one-fortieth part of the price offered, the sale shall be held effective from that date. If the interest on any sale should not be paid when due, the land shall be subject to forfeiture by the Commissioner entering on the wrapper containing the papers "Land Forfeited," or words of similar import, with the date of such action and sign it officially, and thereupon the land and all payments shall be forfeited to the State and offered for sale on a subsequent sale date.

SEC. 5. The surveyed land and unsold portions of surveys included in this Act shall be sold in whole tracts only and without condition of settlement and residence and in quantities not to exceed eight sections to one purchaser. A separate application in writing shall be made for each tract applied for. Any unsold land may be leased at any time at not less than five cents per annum, payable in advance each year and for a term not to exceed five years, but all land so leased and unsold shall be subject to sale on each succeeding sale date. All tracts containing less than 80 acres shall be sold for cash.

SEC. 6. Article 5410 shall be amended so as to hereafter read as follows:

Article 5410. All sales shall be made by the Commissioner of the General Land Office or under his direction. Any person desiring to purchase any of the surveyed land included in this Act shall make a separate application in writing for each tract as a whole and be addressed to the Commissioner of the General Land Office. It shall sufficiently designate the tract applied for and state the amount offered therefor which shall not be less than the appraised value fixed thereon by the Commissioner. The Application shall be delivered to the General Land Office in a sealed envelope addressed to the Commissioner of the General Land Office at Austin, Texas, and the envelope shall have endorsed thereon in effect: "Application to buy land," and date when the land will be on the market. Applications received at the Land Office in envelopes not so endorsed shall nevertheless be valid. When the envelopes so endorsed and applications without endorsement on envelopes are received in the General Land Office, the envelopes shall remain unopened and the applications shall remain unfiled and all shall be safely and securely kept by the Commissioner or his chief Clerk until the day following the day when the land comes on the market and at ten o'clock A. M. on said day one or both of them shall begin to open the envelopes and file all applications and take such action thereon as may be provided by law; provided, if the opening day should be Sunday or other legal holiday, the opening shall be postponed until the first work day thereafter. Those desiring to be present at such

opening may do so. All sales shall be made to the applicant who offers the most for the land, not less than the price fixed by the Commissioner. Should two or more applicants offer the same price for any tract the same being the highest price offered therefor on any sale date, all shall be rejected and the land offered for sale on the next sale date. Payments on all rejected applications shall be returned to the applicant by the State Treasurer. Land heretofore purchased by one shall be counted against him under this Act.

SEC. 7. Article 5432 of the Revised Civil Statutes of 1911 shall be so amended as to hereafter read as follows:

Article 5432. One desiring to purchase any portion of the unsurveyed land believed to belong to the school fund shall make a written application of inquiry to the Commissioner of the General Land Office. The inquiry shall give the applicant's post office address, state in effect that he desires to buy the land if it should be for sale and sufficiently designate it. If it should appear from the records of the Land Office the area belongs to the public free school fund or if there should be doubt as to the existence of the area as public free school land the applicant shall be advised and given the name and address of an authorized surveyor with whom he may contract for the survey of the land at the expense of the applicant. The applicant shall file an application with the surveyor accompanied by one dollar as a filing fee. The Application shall be filed and recorded and sufficiently describe the land. The survey shall be made and returned to the Land Office within ninety days after the date of the Commissioner's advice as to an available authorized surveyor. If the Commissioner should decline to recognize the existence of the area as public school land and refuse to authorize a survey to be made such person may file a suit against the county surveyor in the District Court of the county in which the land is located or in the county to which such county may be attached for judicial purposes to compel him to make the survey and thereupon the surveyor shall impend the claimant of the land and in such proceedings determine if the area be public land. In such proceedings the surveyor shall not be held for any cost incurred. If the final judgement of the Court should decree the area or part thereof to be school land the surveyor shall make the survey and the application, field notes and one dollar filing fee shall be filed in the Land Office within ninety days from date of the final decree. When the surveyor returns the field notes and a plat of the survey to the Land Office, together with one dollar filing fee to be paid by applicant, he shall report under oath the classification and reasonable market value of the land and also the timber thereon and its value which may be considered in connection with such other evidence as may be required by the Commissioner in determining the price to be given the land and timber. If upon inspection of the papers the Commissioner is satisfied from the report of the surveyor and the records of the Land Office the land belongs to the public free school fund and the survey has been made according to law, he shall approve same by classifying and valuing the land and mail notice of such action to the applicant, giving the classification price and terms. Such land shall be sold without condition of settlement and residence, and the timber, if any thereon, shall be sold for cash at its reasonable market value. No award shall be issued for the land until the timber shall

have been fully paid for. The applicant shall file in the Land Office his application for the purchase of the land together with one-fortieth of the appraised value fixed thereon within sixty days from the date of the notice of the classification and valuation together with the applicant's obligation for the balance of the unpaid purchase price bearing interest at the rate of five per cent per annum and the obligation and other conditions of sale shall be the same as that for surveyed land. If such application should not be filed within the time prescribed herein, the Commissioner shall place the land on the market for sale upon the same terms as are herein provided for other surveyed school land. The land shall be sold with the minerals therein reserved to the school fund. All tracts of less than 80 acres shall be sold as a whole for full cash payment which payment shall accompany the purchase application. If upon the inspection of any application, field notes and records of the Land Office, there should appear to be a greater area belonging to the school fund than that included in the application and field notes, the Commissioner may, in his discretion, require the applicant to include the whole area in his field notes. If it should appear that another than the applicant claims an unsurveyed area which belongs to the school fund, the Commissioner may, in his discretion, refer the removal of such claim to the Attorney General before making a sale to an applicant. If the Attorney General should refuse to institute proceedings for the removal of such claim, the Commissioner may, nevertheless, sell the area.

SEC. 8. If for any cause a patent cannot be lawfully issued upon a tract of land heretofore surveyed by virtue of any private right and such land shall be claimed in good faith by one by virtue of an original right or by a chain of title from the original holder of such right duly executed before the passage of this Act, and if such claimant has paid all taxes, he shall have the preference right to purchase the survey as surveyed school land at any time within sixty days after the date of the notice from the Land Office to the claimant that patent cannot be issued thereon, but if the said land should not be so purchased the Commissioner shall place the same on the market for sale as other surveyed public free school land.

SEC. 9. Article 5435 of the Revised Civil Statutes of 1911 shall be so amended as to hereafter read as follows:

Article 5435. Purchasers on condition of settlement under any former law may sell their lands or a part thereof in tracts of any size. A vendee may be substituted for the original purchaser or his vendor and thereby become a purchaser direct from the State by filing in the General Land Office a complete chain of title through personal transfers which have been duly executed and recorded in the county or counties in which the land is situated, or in the county to which such county may be attached for judicial purposes and the payment of the lawful fees, and by so doing the vendee shall thereby assume and become liable to the State for the amount due the State upon the unpaid purchase price, together with all interest due and to become due thereon, and the obligation of the original purchaser or any vendor shall be enforceable against the vendee as if he were the original purchaser; In case the three years residence on the land should not have been completed before the date of the signing of the deed by the vendor, the vendee shall be

in good faith an actual bona fide settler on the land on that date and shall continue to reside upon the land until his residence together with that of his vendor or vendors shall aggregate the required three consecutive years continuous residence. Every vendee before the completion of the required residence by his vendor shall file in the General Land Office an application, affidavit and obligation the same as is required of an original purchaser, together with the partial proof of his vendor's continuous residence to the date of the deed of transfer. When the required three years continuous residence shall have been completed and proof of that fact satisfactory to the Commissioner shall be filed in the General Land Office at any time thereafter, the Commissioner shall issue a certificate of its sufficiency upon payment of the lawful fee and such certificate shall have the same force and effect as is now provided by law. Provided further that in all cases where land belonging to the Public Free School Fund or any of the Asylum Funds, has been purchased on condition of settlement and the purchaser settled thereon, but failed to file in the General Land Office his affidavit of settlement within the time prescribed by law, but has since filed his affidavit, such sales are hereby validated. Purchasers without condition of settlement and residence under this Act or any former law in the counties of Brewster, Bandera, Crockett, Culberson, Edwards, El Paso, Hudspeth, Jeff Davis, Kerr, Kimble, Menard, Pecos, Presidio, Real, Terrell, and Val Verde, may sell their lands at any time and in whole tracts only according to the original purchase and the vendee may become a substitute purchaser therefor direct from the State in the same manner as is provided in this Section for other vendees so far as same may be applicable. When purchasers have completed the required residence and filed in the Land Office satisfactory proof of that fact, and all purchasers without condition of settlement and residence shall have the option of paying the purchase price in full at any time together with lawful fees and obtain a patent for the land.

SEC. 10. Chapter 150, Act approved April 5, 1915 and all other laws and parts of laws in conflict with this Act are hereby repealed.

SEC. 11. The importance of the legislation proposed creates an emergency and an imperative public necessity exists that the constitutional rule requiring bills to be read on three separate days in each house should be suspended and that this Bill be placed upon third reading and final passage and that it shall take effect from and after its passage and it is so enacted.

[NOTE.--S. B. No. 127 passed the Senate on February 13, 1919; and passed the House of Representatives with amendments on March 18, 1919; the Senate concurred in the House amendments on March 19, 1919.]

Approved April 3, 1919.

Becomes effective 90 days after adjournment.